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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/764,350

01/23/2004

John W. PerMar JR.

103.2160

8108

39682

7590

09/25/2006

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EXAMINER

LANDRUM, EDWARD F

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/764,350

Applicant(s)

PERMAR, JOHN W.

Examiner

Edward F. Landrum

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12, 16, 18-20, 23, 24, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 is/are allowed.
- 6) ☒ Claim(s) 12, 18-20, 23, 26, and 27 is/are rejected.
- 7) ☒ Claim(s) 16 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 12 is objected to because of the following informalities: Within the phrase "when said lock is in the open position" in the last paragraph of the claim "lock" should be --blade--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12, 16, 18-20, 23, 24, 26, and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12 and 20 recite the limitation "said at least one lock member" in line 22 of claim 12 and line 16 in claim 20. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

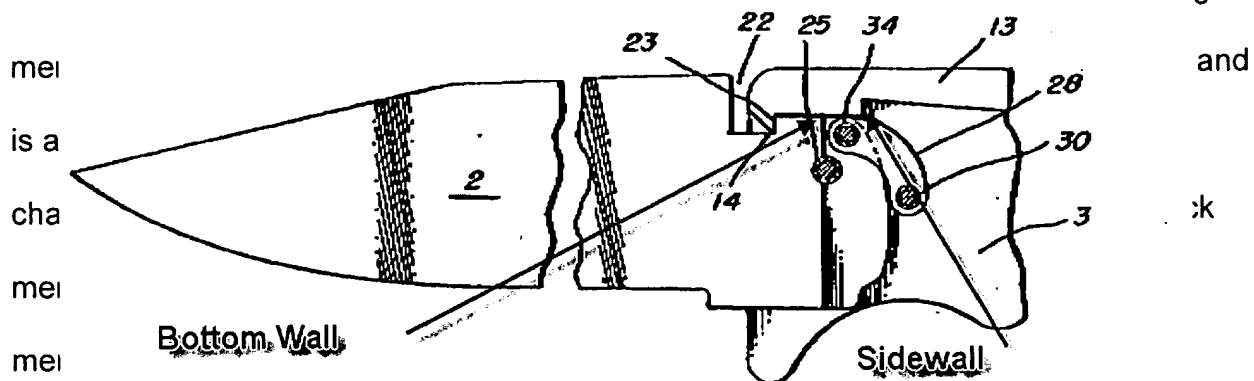
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 12, 18-20, 23, 26, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Cunningham (U.S Patent No. 4,811,486).

Cunningham teaches (see Figures 1-5) a folding knife comprising a handle (1) with a recess formed in the proximal end of the handle (1). A blade (2) is rotatably connected to the distal portion of the handle (1) and moveable between opened and closed positions. The blade (2) contains a first lock member receiving recess (22) that is formed by a bottom wall and two sidewalls extending upwardly therefrom (see Figure 5). A lock bar (13) is pivotally connected to the handle (1) and moveable between engaged and disengaged positions. The lock bar (13) comprises a first lock member (14), composed of a bottom wall and two sidewalls extending upwardly therefrom, that contacts the first lock receiving recess (22) when the lock bar is in the engaged position (see Figure 5). A lock pin (34) is connected to the handle via arm (28) and screw (36) and is adjacent to the lock member (14) and spaced apart from the sidewall of the second lock member.

The folding knife further comprises a second lock member receiving recess composed of a bottom wall (24) and a sidewall (24a) extending upwardly therefrom (see Figure 3) and is adjacent the first lock member receiving recess.

The lock bar further comprises a second locking member. The second locking



position. Lastly, a spring member (19) is connected to the lock bar (13) and the handle (1).

***Allowable Subject Matter***

6. Claims 1-11 are allowed.
7. Claims 16, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 16, and 24 are allowable because they define the position of the lock pin as related to the first and second lock members as well as the first and second lock member receiving recesses. Although Pardue (U.S Patent No. 5,822,866) teaches the correct placement of the lock bar as compared to both the first and second lock members as well as the first and second lock member receiving recesses there is no motivation to combine Cunningham with Pardue because doing so would not work with Cunningham's invention.

8. Claims 2-11 are dependent on claim 1 and are therefore allowable.

***Response to Arguments***

9. Applicant's arguments filed 3/14/2006 have been fully considered but they are not persuasive.

Applicant has removed portions of claim 12 that have made claim 12 non-allowable.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brothers et al (U.S Patent No. 5,685,079), Pittman (U.S Patent No. 5,615,484), Yerzley (U.S Patent No. 1,056,081), and Nishihara (U.S Publication No. 2005/0044717) teach folding knives pertinent to the instant application.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EFL  
9/16/2006



BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER